

**209.105-2 Determinations and documentation.**

(a) The contracting officer shall submit a copy of a determination of non-responsibility to the appropriate debarring and suspending official listed in 209.403.

[71 FR 62559, Oct. 26, 2006]

**209.105-2-70 Inclusion of determination of contractor fault in Federal Awardee Performance and Integrity Information System (FAPIS).**

If the contractor or a subcontractor at any tier is not subject to the jurisdiction of the U.S. courts and the DoD appointing official that requested a DoD investigation makes a final determination that a contractor's or subcontractor's gross negligence or reckless disregard for the safety of civilian or military personnel of the Government caused serious bodily injury or death of such personnel, the contracting officer shall enter in FAPIS the appropriate information regarding such determination within three days of receiving notice of the determination, pursuant to section 834 of the National Defense Authorization Act for Fiscal Year 2011 (Pub. L. 111-383). Information posted in FAPIS regarding such determinations will be publicly available.

[76 FR 57677, Sept. 16, 2011]

**209.106 Preaward surveys.**

When requesting a preaward survey, follow the procedures at PGI 209.106.

[69 FR 65089, Nov. 10, 2004]

**Subpart 209.2—Qualifications Requirements**

**209.202 Policy.**

(a)(1) Except for aviation or ship critical safety items, obtain approval in accordance with PGI 209.202(a)(1) when establishing qualification requirements. See 209.270 for approval of qualification requirements for aviation or ship critical safety items.

[73 FR 1827, Jan. 10, 2008]

**209.270 Aviation and ship critical safety items.**

**209.270-1 Scope.**

This section—

(a) Implements—

(1) Section 802 of the National Defense Authorization Act for Fiscal Year 2004 (Pub. L. 108-136); and

(2) Section 130 of the National Defense Authorization Act for Fiscal Year 2007 (Pub. L. 109-364); and

(b) Prescribes policy and procedures for qualification requirements in the procurement of aviation and ship critical safety items and the modification, repair, and overhaul of those items.

[73 FR 1827, Jan. 10, 2008]

**209.270-2 Definitions.**

As used in this section—

*Aviation critical safety item* means a part, an assembly, installation equipment, launch equipment, recovery equipment, or support equipment for an aircraft or aviation weapon system if the part, assembly, or equipment contains a characteristic any failure, malfunction, or absence of which could cause—

(1) A catastrophic or critical failure resulting in the loss of or serious damage to the aircraft or weapon system;

(2) An unacceptable risk of personal injury or loss of life; or

(3) An uncommanded engine shutdown that jeopardizes safety.

*Design control activity*—(1) With respect to an aviation critical safety item, means the systems command of a military department that is specifically responsible for ensuring the air worthiness of an aviation system or equipment in which an aviation critical safety item is to be used; and

(2) With respect to a ship critical safety item, means the systems command of a military department that is specifically responsible for ensuring the seaworthiness of a ship or ship equipment in which a ship critical safety item is to be used.

*Ship critical safety item* means any ship part, assembly, or support equipment containing a characteristic the failure, malfunction, or absence of which could cause—

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(1) A catastrophic or critical failure resulting in loss of or serious damage to the ship; or

(2) An unacceptable risk of personal injury or loss of life.

[69 FR 55988, Sept. 17, 2004, as amended at 73 FR 1827, Jan. 10, 2008]

#### 209.270-3 Policy.

(a) The head of the contracting activity responsible for procuring an aviation or ship critical safety item may enter into a contract for the procurement, modification, repair, or overhaul of such an item only with a source approved by the head of the design control activity.

(b) The approval authorities specified in this section apply instead of those otherwise specified in FAR 9.202(a)(1), 9.202(c), or 9.206-1(c), for the procurement, modification, repair, and overhaul of aviation or ship critical safety items.

[73 FR 1827, Jan. 10, 2008]

#### 209.270-4 Procedures.

(a) The head of the design control activity shall—

(1) Identify items that meet the criteria for designation as aviation or ship critical safety items. See additional information at PGI 209.270-4;

(2) Approve qualification requirements in accordance with procedures established by the design control activity; and

(3) Qualify and identify aviation and ship critical safety item suppliers and products.

(b) The contracting officer shall—

(1) Ensure that the head of the design control activity has determined that a prospective contractor or its product meets or can meet the established qualification standards before the date specified for award of the contract;

(2) Refer any offers received from an unapproved source to the head of the design control activity for approval. The head of the design control activity will determine whether the offeror or its product meets or can meet the established qualification standards before the date specified for award of the contract; and

(3) Refer any requests for qualification to the design control activity.

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(c) See 246.407 (S-70) and 246.504 for quality assurance requirements.

[69 FR 55988, Sept. 17, 2004, as amended at 70 FR 57190, Sept. 30, 2005; 73 FR 1827, Jan. 10, 2008]

#### 209.270-5 Contract clause.

The contracting officer shall insert the clause at 252.209-7010, Critical Safety Items, in solicitations and contracts when the acquisition includes one or more items designated by the design control activity as critical safety items.

[76 FR 52139, Aug. 19, 2011]

### Subpart 209.3 [Reserved]

### Subpart 209.4—Debarment, Suspension, and Ineligibility

#### 209.402 Policy.

(d) The uniform suspension and debarment procedures to be followed by all debarring and suspending officials are set out in appendix H to this chapter.

(e) The department or agency shall provide a copy of the Debarment and Suspension Procedures at DFARS appendix H to this chapter to contractors at the time of their suspension or when they are proposed for debarment, and upon request to other interested parties.

[59 FR 27668, May 27, 1994]

#### 209.403 Definitions.

*Debarring and suspending official.* (1) For DoD, the designees are—

Army—Director, Soldier & Family Legal Services

Navy/Marine Corps—The Assistant General Counsel (Acquisition Integrity)

Air Force—Deputy General Counsel (Contractor Responsibility)

Defense Advanced Research Projects Agency—The Director

Defense Information Systems Agency—The General Counsel

Defense Intelligence Agency—The Senior Procurement Executive

Defense Logistics Agency—The Special Assistant for Contracting Integrity

National Geospatial-Intelligence Agency—The General Counsel

Defense Threat Reduction Agency—The Director